IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 23.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Appeal No.1016 of 2001

L.Clement Bhaskar ... Appellant/ Petitioner

vs.

1. The Director of Collegiate Education,
Directorate of Public Instruction,
Nungambakkam, Chennai-600 006.

2. The Secretary,
Pachiappa's Trust,
Poonamallee High Road,
Chennai-600 030.

3. The Principal,
C.Kandaswamy Naidu College for Men,
Anna Nagar, Chennai-600 102. ... Respondents/ Respondents

Appeal under Clause 15 of the Letters Patent against the order of the learned single Judge (KGJ), dated 21.12.2000, made in W.P. No.13482 of 2000 on the file of this Court.

W.P.No.13482/2000: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records of first respondent dt. 18.05.1998 made in Mu.Mu.8097/Q2/98-1 and the consequential order dt. 15.11.1999 made in O/Mu.No.29150/G4/99 and quash the same and consequently direct the respondents to consider petitioner for absorption in the vacancy which arises in the regular colleges of the 2nd respondent herein.

For Appellant : M/s.G.Thilakavathi

For R-1 : Mr.R.Vijayakumar,
Government Advocate.

For R-2 : Mr.M.Devendran
For R-3 : No Appearance

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J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above Writ Appeal has been filed against the order of the learned single Judge, dated 21.12.2000, made in W.P. No.13482 of 2000, in and by which, the learned Judge confirmed the proceedings of the Director of Collegiate Education, Chennai-6, dated 18.05.1998 and the consequential order dated 15.11.1999.

2. For the sake of convenience, we shall refer the parties as arrayed in the Writ Petition.

3. According to the petitioner, he was appointed as Lecturer in Economics in C.Kandaswamy Naidu College for men (evening college)., viz., the third respondent college. The said College is one among the various colleges established by Pachiappa's Trust, the second respondent. An approved vacancy for the post of Lecturer fell vacant in the third respondent college and the same was notified to the Employment Exchange. Selection process for the said post was initiated, pursuant to which, the petitioner's name was sponsored by the Employment Exchange. Ultimately, he was appointed by the second respondent by order dated 20.07.1994. Though his appointment was originally made for a period of 10 months, ie., from July-1994 to April-1975, he was assured that his appointment will be continued thereafter, if the Management is satisfied with his services. While so, during the year 1995, since permanent posts in various day colleges run by the 2nd respondent- Trust fell vacant, persons having necessary qualification made representation for consideration. The petitioner also made such representation on 11.5.1999. However, by proceedings dated 15.11.1999, the first respondent intimated that the requisition made by the petitioner in his representation dated 11.5.1999 cannot be considered on the basis of the proceedings dated 18.5.1998, which necessitated the petitioner to file the Writ Petition.

4. The first respondent viz., the Director of Collegiate Education, filed a counter affidavit, highlighting their stand. Amongst the information furnished, it is stated that whenever the petitioner wants him to be appointed in a regular vacancy covered by a Government grant he has to be necessarily appointed as per the Rules. Rule-11(4)(ii) of the Tamil Nadu Private Colleges (Regulation) rules, 1976, provides for mode of appointment for a regular vacancy. Till the petitioner satisfies the requirement as provided in the Rules, he is not entitled for the relief sought for.

5. The second respondent/Pachiappa's Trust also filed a counter conveying their stand.

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6. By the impugned order dated 21.12.2000, the learned Judge, after considering the initial appointment of the petitioner as well as Rule 11(4)(ii) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976; and after finding that when the petitioner claims that he should be appointed to the same post in the regular college, it can be only by direct recruitment; dismissed the Writ Petition, hence, the present Writ Appeal.

7. Heard learned counsel for the appellant as well as the respondents.

8. It is not in dispute that, by order dated 20.07.1994, the petitioner was selected and appointed as Lecturer in Economics in C.Kandaswamy Naidu College for Men (Evening Class) Madras. The said order dated 20.07.1994 makes it clear that the duration of his service is only 10 months, ie., from July 1994 to April 1995. The order also makes it clear that his services will be terminated at any time, if he is found unsatisfactory. Though he continued to be a Lecturer in the Evening College, it is brought to our notice by the counsel for the second respondent that his temporary services were extended periodically on the same lines as ordered on 20.07.1994. It is relevant to note that the first respondent, after finding that the teachers/lecturers working in Evening Colleges cannot be selected and appointed in regular colleges; that the procedure is not in vogue in any other college; and that such appointments have to be made, as directed by the Government, by direct recruitment by way of calling for list from the Employment Exchange; cancelled the earlier proceedings dated 7.5.1996 in Mu.Mu.22308/F.2/96., making it clear that no further appointment shall be made as per the said proceedings dated 07.05.1996.

9. It is not in dispute that Rule 11(4)(ii) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976, provides for mode of appointment for a regular vacancy. As per the said Rule, the Committee shall fill up the posts by promotion or by direct recruitment by calling for applications from the qualified persons through the press or by calling for a list of candidates from the Employment Exchange by following the rule of reservation ordered by the Government from time to time for direct recruitment. As rightly pointed out by the respondents, till the petitioner satisfies the above requirement, he is not entitled for the relief sought for. It is true that the Director of Collegiate Education, in his proceedings dated 07.05.1996, permitted the Management of Pachiappa's Trust to make appointment to the regular day college teaching posts from the teaching staff subject to certain conditions. However, taking note of various aspects, the Director of Collegiate Education re-considered the issue and, by proceedings dated 18.05.1998, cancelled the earlier proceedings dated 07.05.1996 and instructed the second respondent/Trust not to fill up the vacancy in the day college from

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and out of the evening college staff since such practice is not in vogue in any other aided college and also contrary to the orders of the Government.

10. On going through the relevant Rules and in the light of the reasons stated in the proceedings dated 18.05.1998 as explained in the counter affidavit filed by the first respondent, we are of the view that the order of the learned single Judge cannot be faulted with. Though the petitioner claims that, as per the Government Order dated 07.05.1996, he is also eligible to be considered, as rightly pointed out, the said order of the Government was issued contrary to the Rules, in such circumstances, the proceedings of the first respondent dated 18.05.1998 cannot be faulted with, and this aspect was correctly appreciated by the learned single Judge.

11. We are in entire agreement with the conclusion arrived at by the learned single Judge. We do not find any valid ground for interference. Writ Appeal fails and the same is dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

JI.

To

The Director of Collegiate Education,
Directorate of Public Instruction,
Nungambakkam, Chennai-600 006.

2 cs to Govt. Pleader, Sr. 14817 & 14578
1 cc to Mr.M.Devendran, Advocate, Sr. 14492
1 cc to M/s. G. Thilakavathy, Advocate, Sr. 14634

Writ Appeal No.1016/2001.

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